

Office Lease

This lease document is representative of what the City will require be used for the SAPD HIDTA requirement, subject to insertion of economic terms pertinent to that transaction, Respondents should review the document and indicate in their proposal which non-economic sections of the lease, if any, need to be changed due to Landlord's request.

It is anticipated that improvements to the Premises will be required. Subsequent to receipt of Respondent's proposal, a Work Letter Agreement will need to be drafted incorporating all aspects of work that Respondent will complete to the Premises in order to accommodate the occupancy and in accordance with Respondent's proposal.

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1. Basic Information, Definitions.

Effective Date: The effective date of the Authorizing Ordinance

Authorizing Ordinance:

Landlord:

Landlord's Address:

Tenant: City of San Antonio

Tenant's Address: P.O. Box 829966, San Antonio, Texas 78283-3966
(Attention: ????, ????)

Premises:

Permitted Use:

No. of Parking Spaces:

Commencement Date:

Initial Term:

Rent:

**Address for Payment of
Rent:**

**Asbestos Survey
Deadline:**

Building Operating Hours: 6:00 A.M. to 10:00 P.M. Monday through Friday, and
Saturdays from 7:00 AM to 2:00 PM.

Common Areas: All facilities and areas of the Building [include if applicable: and Parking Facilities] and related land that are intended and designated by Landlord from time to time for the common, general, and nonexclusive use of all Building tenants. Landlord has exclusive control over and right to manage the Common Areas.

Essential Services: (a) HVAC to the Premises reasonable for the Permitted Use (exclusive of needs unique to specialized equipment) during Building Operating Hours; (b) hot and cold water for lavatories and drinking; (c) the cleaning and maintenance services on **Exhibit C** on the schedule set out in that exhibit; (d) elevator service, if necessary, to provide access to and from the Premises; (e) electricity for normal office machines and the Building's standard lighting reasonable for the Permitted Use; and (f) lighting in Common Areas and fluorescent lights in the Building's standard light fixtures on the Premises.

The exhibits to this Lease are:

Exhibit A: Description of Premises
Exhibit B: Lease Commencement Memorandum
Exhibit C: Cleaning and Maintenance Schedule
Exhibit D: Initial Cost Memorandum

2. Grant.

Landlord leases the Premises to Tenant, and Tenant takes the Premises from Landlord on the terms and conditions of this Lease. As a part of the Lease, Landlord must reserve for Tenant the number of parking spaces indicated above.

3. Rent.

3.01. Base Rent for the first year of the Initial Term is ??????.

3.02. Tenant must pay Base Rent in the amounts described in this section in advance on the first day of each month or within 10 days thereafter without penalty. If Tenant fails to pay the entire monthly Rent within the 10-day grace period more than twice in a calendar year, and if upon the third such occurrence in the calendar year, the amount due is not paid to Landlord after a period of 15 days from the date that Landlord submits written notice to Tenant of such delinquent payment, then a late charge equal to five percent of the delinquent amount is additionally due and payable by Tenant. The late charge represents a fair and reasonable estimate of costs Landlord will incur by reason of such late payment. Interest and late charges are in addition to all Landlord's other rights and remedies.

3.3. If Landlord receives prepaid rent from or for the account of Tenant, Landlord must apply the prepaid rent according to Tenant's directions.

3.4. Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant must not abate Rent.

4. Term, Renewal.

4.01. The term of this Lease is the Initial Term, unless sooner terminated as provided in this Lease. Tenant may terminate this lease at any time without cause by delivering 30-days prior written notice to Landlord.

4.02. ??????????Tenant may renew this Lease for two 5-year terms by giving Landlord six months prior written notice before expiration of the previous term, whether initial or renewal. Renewals are on the same terms and conditions as the Initial Term, except for rent. Rent during the first renewal is at \$XX a rentable square foot for ??????. Rent during the second renewal is at the then market rate for comparable premises. ???????????

4.03. Whenever this Lease calls for determination of market rent, market rent is determined by the following procedures:

4.03.01. The parties should try to agree on market rent.

4.03.02. If they cannot agree on market rent by December 1, ????, they should agree on an appraiser to determine market rent. The parties share equally in the appraiser's fees. The appraiser's estimate of market rent is market value for the purpose of calculating rent under this Lease.

4.03.03. If the parties cannot agree on an appraiser by December 15, ????, they should each appoint an appraiser not later than January 1, ????. To effect appointment, the appointing party must deliver notice to the other party according to the notice provisions of this Lease. Each party pays the fee for that party's respective appraiser. The two appraisers should try to reach agreement on market rent not later than January 31, ????. If they cannot agree but the higher of the two estimates of market rent is within 10% of the lower, the two figures are to be averaged, and the average is market rent for the purposes of rent calculation.

4.03.04. If the higher of the two estimates of market rent is not within 10% of the lower, the two appraisers should appoint a third appraiser not later than February 10, ????. The third appraiser must make his estimate of market rent no later than February 28, ????, and the third appraiser's estimate is averaged with the market rent estimate of the other two appraisers that is closest to the third's estimate. The market rent estimate of the other two appraisers that is farthest from the estimate of the third appraiser is discarded, and the party who appointed the appraiser whose estimate is discarded pays the fees for the third appraiser

4.04. Time is of the essence in all deadlines in the preceding subparagraph about determining market rent. If a party fails to make a timely appointment, the party forfeits the right to an appointee from that point forward in the market rent determination process. The Director of Capital Improvement Management Services may make all agreements and appointments and otherwise act on behalf of the City

as may be necessary or convenient under the preceding paragraph about determining market rent.

4.05. Tenant must pay Base Rent in the amounts described in this article in advance on

5. Tenant's Affirmative Promises.

Tenant promises that it will:

5.01. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for the Permitted Use.

5.02. Obey (a) all applicable laws relating to the use, condition, and occupancy of the Premises and Building; (b) any requirements imposed by utility companies serving or insurance companies covering the Premises or Building; and (c) any rules and regulations for the Building and Common Areas adopted by Landlord.

5.03. Obtain and pay for all utility services used by Tenant and not provided by Landlord.

5.04. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.

5.05. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are obligations of Landlord.

5.07. Vacate the Premises and return all keys to the Premises on the last day of the Term, subject to any holdover rights.

5.08. On request, execute an estoppel certificate that states the Commencement Date and Termination Date of the lease, identifies any amendments to the lease, describes any rights to extend the Term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested. Tenant need not sign any certificate that purports to modify Tenant's obligations in any respect, except for a change in the address for notice or payment of rent.

5.09. Arrange with Landlord in advance for any heating, air-conditioning, or electrical needs in excess of the Building Standard Hours as provided by Landlord and pay for such additional services as billed by Landlord.

6. Tenant's Negative Promises.

Tenant promises that it will not:

- 6.01. Use the Premises for any purpose other than the Permitted Use.
- 6.02. Create a nuisance.
- 6.03. Interfere with any other tenant's normal business operations or Landlord's management of the Building.
- 6.04. Permit waste.
- 6.05. Use the Premises in any way that would increase insurance premiums or void insurance on the Building.
- 6.06. Change Landlord's lock system.
- 6.07. Alter the Premises.
- 6.08. Allow a lien to be placed on the Premises.
- 6.09. Assign this lease or sublease any portion of the Premises without Landlord's written consent, which must not be unreasonably withheld.

7. Landlord's Affirmative Promises.

Landlord promises that it will:

- 7.01. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
- 7.02. Obey all applicable laws with respect to Landlord's operation of the Building and Common Areas.
- 7.03. Provide the Essential Services.
- 7.04. Repair, replace, and maintain the (a) roof, (b) foundation, (c) Common Areas, (d) structural soundness of the exterior walls, doors, corridors, and windows, (e) HVAC, wiring, and plumbing, (f) floors, and (g) other structures or equipment serving the Premises.

7.05. Allow Tenant the nonexclusive right to use the Common Areas subject to any reasonable rules and regulations that Landlord may prescribe.

7.06. Provide Tenant with detailed invoices for all heating, air-conditioning, and electrical charges in excess of the Essential Services for which Landlord requests reimbursement.

7.7. Deliver to Tenant an Asbestos Survey of the Premises and the Building not later than Asbestos Survey Deadline, in accordance with the provisions of § 6-293 of the City Code of the City of San Antonio, Texas.

7.8 Repair, replace, and maintain any part of the Premises that Tenant is not specifically obligated to repair, replace, or maintain, normal wear excepted pursuant to the scheduled provided on Section 9 below.

7.9 Timely pay when due all charges for utility service to the Premises.

7.10 Timely pay all property tax assessed against the property of which the Premises is part on or before the date the tax collection entity will assess a penalty for late payment.

7.11 Provide a tenant improvement allowance sufficient in scope to design, construct and deliver the Premises complete for Tenant's use pursuant to a proposal made by Landlord.

8. Landlord's Negative Promises.

Landlord promises that it will not:

8.01. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.

8.02. Unreasonably withhold consent to a proposed assignment or sublease.

9. Repair, Maintenance and Replacement Responsibilities.

Landlord and Tenant each agree to repair maintain and replace, if necessary, any building component that is the respective parties responsibility pursuant to the following schedule:

Item	Tenant Responsibility	Landlord Responsibility
Janitorial Services to Premises	No	Yes

Janitorial Services to Common Areas	No	Yes
Utility Services	No	Yes
Pest Control Services	No	Yes
Parking Lot Maintenance	No	Yes
Landscaping	No	Yes
Exposed Electrical Systems including lights and tubes	No	Yes
Concealed Electrical Systems	No	Yes
Exposed Plumbing Systems	No	Yes
Concealed Plumbing Systems including under slab drain lines	No	Yes
Exposed Plumbing Systems	No	Yes

9. Alterations.

Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

10. Insurance.

10.01. Tenant will self-insure as it deems advisable against property loss. As a political subdivision of the State of Texas, Tenant is subject to the Texas Tort Claims Act, and the obligations of Tenant and the rights of persons claiming against Tenant are subject to that Act.

10.02. Landlord must maintain Commercial General Liability insurance of not less than \$1,000,000 and property and casualty insurance for physical damage to the Premises in the amount that is equal to 100% of its actual replacement value.

10.02.02. Each insurance policy of Landlord required by this Lease must contain the following clauses:

“This insurance cannot be canceled, limited in scope or coverage, or non-renewed until after 60-days’ prior written notice has been given to:

City Clerk, City of San Antonio	Department of Capital Improvements
City Hall/2nd Floor	Management Services
P. O. Box 839966	City of San Antonio
San Antonio, Texas 78283-3966	P.O. Box 839966
Attention: Risk Manager	San Antonio, Texas 78283-3966
	Attention: Director"

"The insurance provided by Landlord is primary to any insurance or self-insurance maintained by the City of San Antonio.”

“Any insurance or self-insurance maintained by the City of San Antonio applies in excess of, and does not contribute with, insurance provided by this policy.”

Each insurance policy required by this Lease must contain the following clause:

“The City of San Antonio, its officials, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under this Lease with the City of San Antonio This policy cannot be invalidated as to Tenant because of Landlord’s breach of representation, warranty, declaration, or condition of this policy.”

10.02.03. Within 30 days after the Commencement Date and promptly after Tenant’s later request, Landlord must, at its own expense, deliver certificates to Tenant’s Risk Manager and to the City Clerk, reflecting all required insurance coverage, together with copies of policies and endorsements. All endorsements and certificates must be signed by an authorized representative of the insurance company and must include the signatory’s company affiliation and title. If requested by Tenant, Landlord must send Tenant documentation acceptable to Tenant that confirms that the individual signing the endorsements and certificates is authorized to do so by the insurance company. Tenant may request changes in policy terms, conditions, limitations, or exclusions (except where established by law). If Tenant does so and the changes would increase premiums, Tenant will discuss the changes. If Tenant still wants the changes after discussion, Landlord must make the changes and pay the cost thereof.

Tenant's review and approval of a certificate does not waive the certificate's noncompliance with the requirements of this Lease.

10.02.04. The Notices and Certificates of Insurance must be provided to the same addresses as for notices of cancellation.

11. Release of Claims/Subrogation.

The insurance requirements of this Lease are a bargained-for allocation of risk of loss. Landlord and Tenant release each other from claims arising from injury or loss to either of them or to third parties to which they are liable, if the injury or loss is covered by insurance the waiving party is required by this Lease to maintain, whether or not the party actually has the insurance ("Covered Claims"). This release is additional to and does not limit any other release contained in this lease. Landlord and Tenant, to the maximum extent allowable without causing cancellation of a required policy, waive subrogation against each other for Covered Claims.

12. Indemnity.

12.01. These definitions apply to the indemnity provisions of this Contract:

12.01.01. "Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract, whether or not the person is a party to this agreement. Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death.

12.01.02. "Indemnites" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

12.01.03. "Indemnitor" means Landlord.

12.02. Indemnitor must indemnify Indemnites, individually and collectively, from all Indemnified Claims.

12.03. If Indemnitor and one or more Indemnites are finally adjudged to be jointly liable for Indemnified Claim, Indemnitor need not further indemnify the so-adjudged Indemnites from liability arising from the

Indemnitees' adjudicated share of liability. But despite allegations of Indemnatee negligence, Indemnitor must nevertheless defend all Indemnitees until final adjudication. Indemnitor may not recover sums previously spent defending or otherwise indemnifying the Indemnatee who has been adjudged to be negligent and must continue to indemnify other Indemnitees.

12.04. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees..

12.05. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnatee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

12.06. In addition to the indemnity required under this Contract, each Indemnatee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

12.07. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnatee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnatee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnatee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnatee must first be approved by City Council.

12.08. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

12.09. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees and 95% by the Indemnitor. Indemnitor need look only to the

City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

13. Casualty/Total or Partial Destruction.

13.01. If the Premises are damaged by casualty and can be restored within 90 days, Landlord will, at its expense, restore the roof, foundation, Common Areas, and structural soundness of the exterior walls of the Premises and all leasehold improvements within the Premises, including interior partitions, ceilings, wiring, light fixtures, and plumbing.. Restoration must be to substantially the same condition existing before the casualty. If Landlord fails to complete the portion of the restoration for which Landlord is responsible within 90 days from the loss, Tenant may terminate this lease by written notice delivered to Landlord before Landlord completes Landlord's restoration obligations.

13.02. If the Premises cannot be restored within 90 days, Landlord has an option to restore the Premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within 10 days. If Tenant does not terminate this lease, the lease will continue, and Landlord will restore the Premises as provided above.

13.03. During the period before Landlord completes restoration, the Rent will be adjusted as may be fair and reasonable.

13.04. As with the insurance requirements, the rebuilding obligations of this paragraph are a bargained-for allocation of risk.

14. Condemnation/Substantial or Partial Taking.

14.01. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.

14.02. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

14.03. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

15. Holdover.

15.01. If the Lease has not been earlier terminated according to its terms and Tenant is current on rent, both after the Initial Term and after any renewals provided for in this instrument, Tenant may hold-over for up to six additional months on a month-to-month basis. Tenant need not give advance notice of intent to exercise this hold-over right, and it need not hold over all of the allowable six months. The rent during a hold over is the same as the rent for the term being held over, and all other terms of this Lease apply. Council's authorization of this instrument is authority for the City as Tenant to enter into the hold-over period without further council action if the Director of Capital Improvements Management Services deems the holdover beneficial.

15.02. If prior notice is required to initiate a renewal under this Lease, the required notice period may include time in the hold-over period. If the required notice of renewal is less than the hold-over period, Tenant may deliver notice in the hold-over period.

15.03. Whenever this Lease refers to its term, events to occur during the term, or rights and obligations of Landlord and Tenant during the term, a hold-over period is considered a part of the term.

16. Default.

16.01. *Default by Landlord/Events.* Defaults by Landlord are (i) failing to comply with any provision of this lease within thirty days after written notice and; (ii) failing to provide Essential Services to Tenant within ten days after written notice and; (iii) failure to pay for utility service pursuant to Section 7.9 prior to a notice of service cancellation being issued by the utility provider and; (iv) failure to pay property taxes prior to their due date.

16.02. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not provide an Essential Service within thirty days after default, terminate this lease. Notwithstanding the above remedies, in the event utility service is in imminent threat of being terminated, Tenant without prior notice to Landlord, may make arrangements for payment and deduct the entire cost paid against the next occurring Rent payment.

16.03. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to pay timely Rent, (b) abandoning or vacating a substantial portion of the Premises, and (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

16.04. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the rent directly by reason of the reletting, Tenant to reimburse Landlord for reasonable reletting expenditures; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages.

17. Warranty Disclaimer.

There are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this lease, and there are no warranties that extend beyond those expressly stated in this lease.

18. Environmental.

18.01. "Environmental Laws" means applicable federal, state, and local laws relating to protection of the public health, welfare, and the environment, including without limitation, those laws relating to the storage, handling, and use of chemicals and other hazardous substances, those relating to the generation, processing, treatment, storage, transport, disposal, or other management of waste materials of any kind, and those relating to the protection of environmentally sensitive areas.

18.02. "Hazardous Material" means "hazardous substance," "pollution or contaminant," "petroleum," and "natural gas liquids," as those terms are defined by or used in Environmental Laws, or that are regulated because of their effect or potential effect on human health and the environment.

18.03. "Release" means depositing, spilling, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing.

18.04. Landlord represents that the Premises and the property of which the Premises are a part, if applicable, comply with all applicable Environmental Laws. Landlord must cause its employees, agents, contractors, tenants, and other persons occupying or present on or about the property on which the Premises are located (other than the Premises) (collectively, "Occupants") to comply with all applicable Environmental Laws.

18.05. Landlord represents and warrants that there has been no Release and there is no threat of Release of any Hazardous Materials on, onto, or from the Premises and that the Premises has not contained and does not contain any asbestos,

underground or aboveground storage tanks, or “PCBs” or “PCB items,” as defined in 40 CFR § 761.3.

18.06. Tenant must not allow the Release of any Hazardous Material from its use of the Premises on, onto, or from the Property. Tenant further must not to handle, use, or otherwise manage any Hazardous Material on the Premises or the Property in violation of any Environmental Laws or in any but a reasonable and prudent manner.

18.07. Landlord represents and warrants that, (y) with regard to activities and conditions on the Property Landlord has not given, nor was it required to give, and Landlord has not received, any notice that: (i) the Property violates any Environmental Law; (ii) there has been a Release, or threat of Release, of Hazardous Materials from the Property; (iii) the Landlord may be or is liable, in whole or in part, for costs of cleaning up, remediating, removing, or responding to a Hazardous Materials release; or (iv) the Property is subject to a lien under any Environmental Laws; and (z) no conditions currently exist, or are reasonably foreseeable, that would give rise to such a notice. In case of receipt of such notice, Landlord must immediately provide Tenant a copy.

18.08. Before the Commencement Date, Landlord must permit Tenant and its, representatives and contractors to enter upon the Premises at reasonable times and in a reasonable manner to investigate environmental matters. Tenant may perform such tests, including without limitation, subsurface testing, soils, and groundwater testing, and any other tests, as the Tenant, in its sole discretion, determines are necessary to identify environmental concerns. The investigation is at Tenant’s sole cost. Tenant must minimize the intrusion upon and inconvenience to Landlord and the ongoing operations at the Premises. If Tenant performs any tests that disturb the Property, Tenant must restore the Property. Tenant is responsible for damages arising from its testing on the Property and for the proper disposal of any wastes generated by its testing.

18.09. Landlord must indemnify Tenant and its officials, employees, and contractors from loss, cost, liability, or expense (including, but not limited to, attorneys’ fees and expenses, including all attorney’s fees and expenses incurred by Tenant in enforcing this indemnity) arising from or relating to breach of Landlord’s environmental representations, warranties, and covenants.

19. Appropriations.

All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. If the City

Council fails to appropriate money for this Lease in an annual City of San Antonio Budget, the City may terminate this Lease and have no further liability.

20. Dispute Resolution.

20.01. Before bringing any action arising out of this agreement, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

20.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

20.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

20.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

20.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

20.06. Mediator fees must be borne equally.

20.07. The parties need not mediate before going to court (1) for either party to seek emergency injunctive relief or (2) for Landlord to seek forcible entry and detainer relief against Tenant.

21. Prohibited Interests in Contracts.

21.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a

contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

22.02. Landlord warrants and certifies as follows:

- (i) Landlord and its officers, employees and agents are neither officers nor employees of the City.
- (ii) Landlord has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

21.03. Landlord acknowledges that City's reliance on the above warranties and certifications is reasonable.

22. Miscellaneous.

22.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, State of Texas. **Its Construction And The Rights, Remedies, And Obligations Arising Under It Are Governed by The Laws of The State Of Texas.** But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. Both parties' obligations under this agreement are performable in San Antonio, Bexar County, Texas, and venue for any action arising under this agreement is only in Bexar County, Texas.

22.02. *Severability.* If any part of this agreement is found invalid or unenforceable, the finding does not affect the remainder.

22.03. *Successors.* This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

22.04. *Integration.* This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.

22.05. *Modification.* This Agreement may be changed only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to that restriction, any of this Agreement's terms may be modified by the party entitled to their benefit, but no modification, express or implied, affects the right of the modifying party either (i) to apply any other term or condition or (ii) to apply the same term or condition to a later or earlier occasion.

22.06. *Third Party Beneficiaries.* This Agreement benefits the parties and their successors and permitted assigns only. It has no third party beneficiaries.

22.07. *Notices.* Notices must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. If the addressee is a corporation, notices must be addressed to the attention of its President. Notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice.

22.08. *Captions.* Paragraph captions are for ease of reference only and do not affect the interpretation.

22.09. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of their number, counterparts constitute only one agreement. In making proof of this agreement, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

22.10. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be necessary to effect fully the provisions hereof. But no such additional documents can alter the rights or obligations of the parties stated in this agreement.

22.11. *Administrative Agreements.* All certificates, memoranda, estoppels, attornments, and modifications of nonmaterial rights and obligations arising under this Lease may be signed on behalf of Tenant and delivered to Landlord by the

Director of Capital Improvements Management Services, without further council action.

22.12. *Conflicts Between Numbers Stated Two Ways.* Whenever this lease states the same number both as a lump sum and as a calculated number (as, e.g., rent per month or costs per square foot), if the lump sum conflicts with the calculated number, the calculated number controls.

22.13. *Incorporation of Exhibits.* All exhibits to this Lease are incorporated into it for all purposes as if fully set forth.

23. Public Information.

Landlord acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

In Witness Whereof, the parties have caused their representatives to set their hands.

Tenant

Landlord

City of San Antonio, a Texas
municipal corporation

????????????????

Signature:_____

Signature:_____

Printed
Name:_____

Printed
Name:_____

Title:_____

Title:_____

Date:_____

Date:_____

Attest:

City Clerk

Approved as to Form:

City Attorney

Exhibit A: Description of Premises

Exhibit B: Lease Commencement Memorandum

Lease Commencement Memorandum

Landlord:

Tenant:

Lease:

Authorizing Ordinance:

Predicate Facts:

Landlord and Tenant are parties to the Lease, which was authorized by the Authorizing Ordinance.

The Lease Term is to begin at the sooner to occur of (a) ??? date??? or (b) completion of certain work provided for in the Lease.

For their mutual benefit, the parties now wish to memorialize the actual commencement date of the Lease's Term.

Rights and Obligations:

Now Therefore, in consideration of the premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Defined Terms.

All terms used in this memorandum and not otherwise defined herein but defined in the Lease have the meanings ascribed to them in that instrument.

2. Lease Commencement.

The Lease Term commences ??????.

3. No Default.

As a part of the inducement to Landlord to execute and deliver this consent, Assignor represents to Landlord and Assignee that:

- a. The Lease is in full force and effect according to its terms.
- b. Neither party is in default under the Lease.

c. Neither party has any offset or claim against the other that would reduce or impair its obligations under the Lease.

4. Conflict of Terms.

This instrument controls over anything to the contrary in the Lease.

In Witness Whereof, the parties have caused their representatives to set their hands.

City of San Antonio, a Texas municipal corporation

XXXXXXXXXXXX

By: _____

By: _____

Printed
Name: _____

Printed
Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest:

City Clerk

Approved as to Form:

City Attorney

Exhibit C: Cleaning and Maintenance Schedule

Cleaning and Maintenance Schedule

Daily (Monday through Friday)

Carpets Vacuumed

Composition floors dust-mopped

Desks, desk accessories and office furniture dusted. Papers and folders left on desk, not to be moved.

Wastebaskets and other trash receptacles emptied; remove trash from the building to an area designated outside of the Premises.

Chairs and wastebaskets returned to proper position.

Fingerprints removed from glass doors and partitions.

Drinking fountains cleaned, sanitized and polished.

Lavatories, toilets and toilet rooms cleaned and mopped. Toilet supplies replenished.

Malfunctioning light bulb and tube replaced, as required.

Graffiti expunged as needed but no more than two business days after Tenant has given Landlord verbal notice of the existence of graffiti.

Kitchen/lunchroom supplies replenished including paper supplies and soap.

Weekly

Low-reach areas such as, but not limited to, chair rungs, baseboards and insides of doorjambs dusted.

Windowsills, ledges and wood paneling and molding dusted.

Floors washed in uncarpeted office areas.

Monthly

Floors waxed in uncarpeted office areas.

High-reach areas, such as, but not limited to, door frames, tops of partitions and hanging light fixtures dusted.

Upholstered furniture vacuumed, plastic and leather furniture wiped.

Picture molding and frames dusted.

Wall vents and ceiling vents vacuumed.

Carpet professionally spot cleaned as required to remove stains.

HVAC chiller water checked for bacteria, chiller water conditioned as necessary.

Quarterly

Light fixtures cleaned and dusted, but not less frequently than Quarterly.

Wood furniture polished.

Draperies or mini-blinds cleaned as required, but not less frequently than Quarterly.

HVAC units serviced for preventative maintenance purposes, all filters changed.

Semi-Annually

Windows washed as required inside and outside but not less frequently than two times annually.

All painted wall and door surfaces washed and stains removed.

All walls treated with vinyl covering washed and stains removed.

Annually

Furniture Systems and other fabric or upholstered surfaces, including chairs, couches,

walls, etc., spot cleaned, or if determined to be necessary in Tenant's sole discretion, professionally cleaned in their entirety using a water extraction process.

Bathroom and any other ceramic tile surfaces professionally cleaned using a hand scrub process. All grout and porous surfaces resealed with a professional grade sealant.

Touch-up paint all interior painted surfaces in a color and finish to match existing.

As Needed

Premises and the sidewalks, driveways, parking areas and all means of ingress and egress serving the Premises should be maintained in good repair, and in clean and safe condition at all times.

All lawns, shrubbery and foliage on the grounds of which the Premises is part should be maintained in good condition and neat in appearance. Grass and shrubbery must be replanted as needed to maintain the grounds in good appearance and condition.

Carpets to be cleaned using non-detergent, low moisture, soil encapsulation system as recommended by the carpet manufacturer. The following schedule will be maintained for carpet cleaning: (i) heavy traffic areas as needed with a minimum frequency of bi-monthly (six times per year); (ii) moderate traffic areas cleaned as needed with a minimum of once every six months (two times per year) and; (iii) clean light traffic areas a minimum of one time per year. Cleaning carpet via use of a bonnet cleaning system is not an acceptable method for cleaning carpets.

All walls repainted and wall coverings replaced throughout the Premises. The paint finish should be eggshell or semi-gloss as directed by Tenant and in a color acceptable to Tenant. In no event, subject to damage or destruction conditions as provided in the Lease, will Landlord be required to repaint or replace wall coverings more than one time in a five-year period, not counting the initial tenant improvements completed prior to Tenant's occupancy or as a condition to the renewal of the Lease.

General

Landlord must, upon request of Tenant, produce written service contracts as evidence of compliance with the terms of this Cleaning and Maintenance Schedule.

Exhibit D: Initial Cost Memorandum

Initial Cost Memorandum

(If this is used, it must tie into early termination penalty or other provision of this lease)

Landlord:

Tenant:

Lease:

Authorizing Ordinance:

Predicate Facts:

Landlord and Tenant are parties to the Lease, which was authorized by the Authorizing Ordinance.

The leasing commission and tenant improvement costs are relevant to the parties' rights and obligations under the Lease..

For their mutual benefit, the parties now wish to memorialize the actual costs.

Rights and Obligations:

Now Therefore, in consideration of the premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Defined Terms.

All terms used in this memorandum and not otherwise defined herein but defined in the Lease have the meanings ascribed to them in that instrument.

2. Lease Commsission.

The total lease commission paid or to be paid by Landlord regarding the Lease is ??????. It is payable ????.

3. Tenant Improvements.

Landlord's total costs for tenant improvements under the Lease are ????.

4. No Default.

As a part of the inducement to Landlord to execute and deliver this consent, Assignor represents to Landlord and Assignee that:

- a. The Lease is in full force and effect according to its terms.
- b. Neither party is in default under the Lease.
- c. Neither party has any offset or claim against the other that would reduce or impair its obligations under the Lease.

5. Conflict of Terms.

This instrument controls over anything to the contrary in the Lease.

In Witness Whereof, the parties have caused their representatives to set their hands.

City of San Antonio, a Texas municipal corporation

XXXXXXXXXXXX

By: _____

By: _____

Printed
Name: _____

Printed
Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest:

City Clerk

Approved as to Form:

City Attorney